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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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In the Matter of)	
)	
Review of the Commission's Regulations)	
Governing Television Broadcasting)	MM Docket No. 91-221
)	
Television Satellite Stations)	MM Docket No. 87-8
Review of Policy and Rules)	

To: The Commission

COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

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Summary

Sinclair Broadcast Group, Inc. (“Sinclair”), through its attorneys, submits comments herein relating to Local Marketing Agreements (“LMAs”). Specifically, Sinclair seeks to share, through these comments, its extensive, personal experience with LMAs, making clear their wide-ranging benefits and the need for the Commission to permit such agreements.

Sinclair owns and operates independent UHF television stations in six markets. In four of these markets, Sinclair provides programming to additional UHF stations through LMAs. In each market, the LMAs have resulted in an increase of children’s, local, and minority-based programming. In addition, in two markets, the respective LMAs have facilitated successful minority ownership of these stations. Thus, Sinclair’s experience -- shared herein -- demonstrates the numerous benefits that LMAs have brought these markets, as well as the exigency of allowing the continued existence of LMAs in the future, to further the integral goals of competition and diversity in programming and ownership of television stations.

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Sinclair Broadcast Group, Inc. ("Sinclair"), by its attorneys, hereby submits the following comments on the Commission's Further Notice of Proposed Rule Making in the above-captioned proceeding, FCC 94-322 (released January 17, 1995) ("FNPRM"). Sinclair is a member of the Local Station Ownership Coalition ("LSOC"), which today is filing comments in this proceeding urging the Commission to relax its local television ownership rules to permit the common ownership of two television stations in a market, and unless it undertakes such a rule revision, to not treat television time brokerage or local marketing agreements (collectively "LMAs") as ownership interests that are attributable to the broker.

While the comments of the LSOC reflect Sinclair's position in this proceeding, Sinclair submits these separate comments to emphasize its belief that the Commission should continue to permit LMAs in the television industry -- and in particular, to share with the Commission its

first-hand experience with the benefits that have stemmed from LMAs in which Sinclair is involved. Sinclair is presently providing programming services to UHF television stations in four markets. As shown below, these LMA arrangements have transformed marginal or struggling stations into profitable facilities able to provide a diversity of high-quality programming, and expand their offerings of local, children's, and minority-oriented programs, to the communities they serve. Sinclair's LMAs are very real evidence of the benefits that such arrangements provide, in the form of enhanced competition in the video marketplace and richer program diversity for the viewing public. The Commission should take no action to hinder the many public interest benefits that television LMAs create.

Introduction

Sinclair is the owner and operator of independent UHF television stations in six markets across the country: WBFF-TV, Baltimore, Maryland; WPGH-TV, Pittsburgh, Pennsylvania; WTTE(TV), Columbus, Ohio; WTO(TV), Birmingham, Alabama; WCGV-TV, Milwaukee, Wisconsin; and WLFL(TV), Raleigh, North Carolina.^{1/} In addition, Sinclair provides programming to separate UHF stations in four of these markets -- WNUV-TV, Baltimore, Maryland; WPTT(TV), Pittsburgh, Pennsylvania; WTV(TV), Milwaukee, Wisconsin; and WRDC(TV), Durham (Raleigh), North Carolina, under Programming Services Agreements.^{2/}

^{1/} The Commission has recently granted approval for Sinclair's acquisition of a seventh television station, WTVZ(TV), Norfolk, Virginia.

^{2/} Sinclair assumes that these Programming Services Agreements are within the scope of what the FNPRM terms as "LMAs," and for the sake of convenience, the Agreements will be referred to in these comments as "LMAs." As noted above, however, Sinclair's use of the term "LMA" should not be read to imply that Sinclair's Programming Services Agreements involve extensive simulcasting of programming.

In the FNPRM, the Commission observes that LMAs “enable separately owned stations to function cooperatively via joint advertising, shared technical facilities, and joint programming arrangements,” citing its earlier proceeding in connection with the radio multiple ownership rules. FNPRM at 58-59, para. 133 & n.159. This observation is certainly true with respect to television LMAs as well. However, it is vitally important for the Commission to understand that television LMAs differ from radio LMAs in a very fundamental respect. Unlike the customary radio LMA, which involves one station simulcasting the majority of its broadcast day over a second station in the market, television LMAs do not ordinarily involve significant amounts of common or simulcast programming. In the customary television LMA, the broker purchases and provides to the brokeree, usually in exchange for a monthly fee, an entirely separate inventory of programming. Indeed, in the markets where Sinclair has LMAs, the Sinclair owned-and-operated station is the market Fox affiliate -- whereas the stations being programmed by Sinclair are affiliated with another network (in most cases, the emerging United Paramount (“UPN”) or Warner Brothers network), and have completely different slates of syndicated entertainment programming. Thus, it is critical for the Commission to realize that, in contrast to many radio LMAs, stations involved in most television LMAs are very much distinct in their images and their program offerings. At the same time, however, Sinclair’s LMAs have allowed Sinclair to bring its production resources and community service commitment to bear on the brokered station by producing local issue-responsive programming for broadcast on either one or both stations -- therefore expanding the potential outlets for, and reach of, such programming.

Sinclair’s LMAs have resulted in greater options for viewers, advertisers, and programmers, while increasing the quality and quantity of programming geared to local concerns and interests. In particular, these LMAs have increased program options for viewers in terms of

local, children's and minority programming, to the benefit of the communities that these stations serve. In addition, Sinclair's LMAs have rendered the participating stations stronger economically, increasing the amount and variety of programming that the stations can air. This has been critical to the ability of these UHF, mostly independent, stations to compete as free, local, over-the-air single-channel outlets in the rapidly expanding multichannel video marketplace, particularly in a regulatory environment where free television broadcasters are limited by ownership restrictions that do not apply to their multichannel counterparts. Thus, by bringing about increased diversity in programming and ownership interests, and more competition in the local broadcast markets, LMAs have clearly furthered the policy goals which underlie the FNPRM.

Consequently, Sinclair opposes any new rules which would restrict or eliminate the viability of television LMAs. Specifically, Sinclair believes that the Commission should not modify its television ownership rules so that time brokerage of another television station in the same market would count as an attributable interest for the brokering station's licensee unless the Commission allows common ownership of two television stations in a market.^{3/} Moreover, even should the Commission adopt rules that prospectively bar future television LMAs, it should not disrupt LMAs that are presently in existence.

As support for its position, Sinclair below offers factual proof, through its own experience, of the extensive positive aspects that television LMAs have brought to the

^{3/} Sinclair supports the LSOC recommendations that all LMA agreements be filed with the Commission, placed in the respective stations' local public inspection files, and disclosed in ownership reports (with confidential and proprietary information redacted). Sinclair, however, opposes any additional regulations on LMAs.

communities and the individual stations participating in the LMAs. These facts demonstrate the prudence of continuing to permit such arrangements.

Sinclair's Experience with LMAs

I. WBFF/WNUV (Baltimore, Maryland)

Sinclair's Programming Services Agreement with WNUV-TV, has brought demonstrable benefits to the Baltimore community and to both WNUV-TV and Sinclair's Baltimore station, WBFF(TV). Specifically, the LMA has led to an increase in the amount of local children's, minority, community-based and public service programming aired on both stations, made possible by the pooling of resources and equipment between the two stations. Sinclair has been able to bring its commitment to local, minority and children's programming to bear on both facilities because of the LMA.

Prior to entering into the LMA, WNUV did not produce any local children's programming. That has changed. The LMA has brought about the production and broadcast of children's Public Service Announcements ("PSAs") concerning health and safety issues by both stations. These PSAs have centered on both Baltimore City school children and members of the Salvation Army Boys and Girls Club in disadvantaged communities of Baltimore. In addition, both stations have increased efforts to program and produce children's PSAs to air during morning and afternoon children's animated programs. In the future, WNUV will air a "Kids Speak Up" program, in which children will have the opportunity to address their important concerns and issues.

The LMA has also led to increased minority programming in the Baltimore market. The LMA allowed Sinclair to expand WNUV's Black History Month programming, "Proud and Positive," which honored positive minority role models. Through the sharing and utilization of WBFF's expanded resources, WNUV has also been able to develop more aggressive recruitment of community involvement in the project, and WNUV has devoted more air time to these broadcasts.

The LMA between Sinclair and WNUV has benefited the Baltimore community in other aspects as well, which transcend over-the-air manifestations. WNUV and the community have each prospered from Sinclair's aggressive approach to the development of partnerships with local businesses to support community service campaigns and programming. For example, WBFF forged the development of a health program, "For Your Health: Partners in Prevention," in conjunction with a local hospital. The underwriting provided by the hospital partner has led to a frequent broadcast schedule of a series of wellness and preventive health-care messages on WBFF and WNUV, not seen on any other stations in Baltimore. Additionally, the future promises to bring more such partnerships associated with the creation of community outreach and broadcast campaigns focusing on traffic safety, crime prevention, and children's issues. These partnerships with local businesses have allowed WNUV to devote more resources, production, and air time at heavily viewed periods to produce and air PSAs, reaching the viewing audience with essential information tied to high-priority community concerns. Finally, the LMA has spurred the way for other types of local programming. For example, Sinclair plans to air a "town meeting" with Governor Parris Glendening on both stations during prime time in June of this year.

In Baltimore, as recounted above, Sinclair's LMA with WNUV-TV has afforded local community and non-profit organizations increased access to the airwaves, to use television as a means to better communicate goals, programs and services to the public on both stations. The combination of resources means more viable air time for local organizations on the two stations. This increase in community access to the stations, and in children's and minority programming, has clearly augmented the overall quantity and quality of local programming in Baltimore.

II. WPGH/WPTT (Pittsburgh, Pennsylvania)

In Pittsburgh, the LMA between Sinclair and WPTT, entered into in January 1992, has provided numerous benefits for both stations and the Pittsburgh viewing area as a whole. Before the LMA, WPTT was affiliated with the Home Shopping Network. The station was losing millions of dollars and stood on the verge of shutting down operations. The LMA with Sinclair completely turned that around. Since January 1992, WPTT has become a viable television station which today serves as a UPN network affiliate. Owing to the dynamics of its LMA with Sinclair, WPTT -- a minority-owned station -- now is profitable.

The LMA has clearly helped to insure the vitality and enterprise of WPTT, and made possible the successful minority ownership of WPTT. Such a tangible result profits not only the individual members of the minority groups who have gained access to the broadcasting industry through ownership and management, but by facilitating profitable minority ownership of WPTT, the LMA has markedly increased the amount and variety of minority programming that WPTT can air. These programming and ownership results benefit all members of the Pittsburgh community as a whole. This represents precisely the Commission's stated goals in exploring

methods to increase minority ownership in broadcasting,^{4/} and furthers the policies stated by Justice Brennan in Metro Broadcasting, Inc. v. FCC, 497 U.S. 547 (1990).

Sinclair has been able to bring its commitment to local, minority and children's programming to bear in Pittsburgh as well because of the LMA. The increased resources available to WPGH and WPTT in conjunction with the LMA have allowed both stations to provide better programming and sponsor localized telethons to raise money for causes such as Arthritis and Leukemia. It also allows WPGH to offer production facilities to locally produce public service shows which air on both stations.

The LMA affords enhanced diversity in the programming of both stations. In terms of specific programming, Sinclair produces 24-30 half-hour episodes of "Take One" each year, which air on WPGH each week. The show's topics center on various issues relevant to community and children's concerns, ranging from child-abuse, health matters, aqua-marine life, cooking lessons, ice-sculpting, and recycling. In addition, WPGH creates approximately sixty different 30-second programs each year intended for children, addressing such disparate topics as Pennsylvania history, home alone safety, inventions, self-esteem, ecology, nutrition and other areas of concern to children in the viewing area. Both stations air these programs in a variety of morning, afternoon, weekend and weekday time slots.

WPGH provides numerous other children's programs which air on WPTT as part of the LMA. On both WPGH and WPTT, viewers may see "News For Kids," which contains interview segments with such luminaries as former President Jimmy Carter, and focuses on topics such as

^{4/} See, e.g., FNPRM at 61, para. 139 (stressing Commission's concerns for increasing minority and female ownership of television stations).

Black History Month. In addition, WPGH regularly airs the show “Fox Clubhouse,” which seeks to reinforce fundamental values in children such as sharing, sportsmanship and togetherness.

Due to the pooling of resources and facilities, the LMA has also made possible increased community-based programming, airing on both stations. For example, Sinclair helped develop and produce a one-hour special entitled “It Takes a Whole Community to Raise a Child,” an anti-youth violence project simulcast on both stations in March 1995. Other Sinclair-produced programming airing on WPGH includes: “In Focus,” which centers on topics of interest in Pittsburgh such as the local economy, and recently profiled efforts to achieve peace between local gangs through business enterprise; and “FYI Pittsburgh,” whose topics in 1995 have included low income energy assistance programs, homelessness in Pittsburgh, and lessons in beginning a business.

Sinclair’s Pittsburgh LMA has benefited the community in ways which supersede specific programming changes. For example, WPGH orchestrated the “Foxfest” event last year at which Fox television and other media personalities entertained the crowds gathered at the event. WPGH ran this successful program in conjunction with WPTT.

The LMA, as stated, has also made possible increased minority-based programming on the two stations. Two examples are “Eddie’s Digest,” which airs for one half-hour every Sunday on WPTT, and “In Focus,” which WPGH airs for one half-hour every other Sunday. In addition, WPTT aired the United Negro College Fund Telethon. Finally, in January, “Take-One” aired a program which focused exclusively on Native Americans.

III. WCGV/WVTV (Milwaukee, Wisconsin)

The LMA between Sinclair and WVTV also demonstrates how LMAs can rescue financially troubled stations from economic crises, keeping stations from going dark. The LMA helped save the financial viability of WCGV. When WCGV lost its Fox affiliation in December of 1994, because of the LMA WCGV had the ability to move programming from WVTV over to WCGV until the birth of UPN in January, 1995, preserving WCGV's viability as a Milwaukee television station. Without the LMA, the station would likely have ceased operations.

Sinclair's Programming Services Agreement with WVTV has brought numerous other benefits to the Milwaukee area. The LMA has led to an increase in local-interest, children's and community programming on both stations. For example, WCGV produces a weekly, half-hour public service program entitled "The Milwaukee Observer." This program focuses on different children's issues in each segment, determined in accordance with topics identified by the Greater Milwaukee Broadcasters Group Ascertainment Session Reports. WCGV also has plans to air and contribute creatively in the production of "Take One", a half hour program to air weekly on both WCGV and WVTV. "Take One" features subjects of interests for children 16 years and younger. Other children's/community programming includes "Kid Connection," a thirty-second children's community calendar which airs six days per week on WCGV and highlights local events for children and their families. The LMA between the two stations makes possible this extensive children's programming, not available on any other stations in the Milwaukee area.

In addition, the pooling of resources made possible through the LMA allows WCGV to expend additional resources to sponsor important events for the Milwaukee community. For example, WCGV serves as the media sponsor for the Milwaukee Public Library Summer

Reading Program, which encourages children to continue reading in the summer months while on summer vacation from school. Finally, WCGV serves as a media sponsor for several of the Easter Seal Association of Greater Milwaukee's events, including Haunted Holler, a Halloween fund-raiser, and Hatch-N-Egg, a Spring fund-raiser. WCGV produces thirty-second PSAs for both of these events.

The LMA also allows for the broadcast of live local sports, which Milwaukee viewers cannot see on other stations. For example, when the CBS affiliate in Milwaukee dropped its coverage of the annual Boys and Girls State Basketball Championships, the sanctioning body (W.I.A.A.) sought an outlet on which to broadcast the games. While WVTM could not air the games due to a prior programming conflict, WCGV stepped up to the plate to air the games, filling the potential void for Milwaukee viewers.

IV. WLFL (Raleigh, North Carolina)/WRDC(Durham, North Carolina)

Sinclair's most recent LMA has already paid large dividends for the Raleigh-Durham area, with the future promising even greater rewards. Utilizing the resources of the two stations in combination gives both stations the requisite flexibility to air local sports and create dual station public service promotions for community fund-raising events.

Just as with Sinclair's Programming Services Agreement in Pittsburgh, the LMA has made possible the minority ownership of WRDC, which, in turn, has brought about attendant increases in minority-based programming. Through the LMA, the two stations can best serve the substantial minority, and overall, population of the Raleigh-Durham area. Thus, the LMA has paved the way in Raleigh/Durham for the successful implementation of the policy aspirations of

the Commission and the Supreme Court.^{5/} The WLFL/WRDC example underscores the need to continue to allow LMAs in the future.

In addition, WLFL and WRDC have significant plans regarding production of children's programming. The stations will produce six to eight minute segments for inclusion in the "Take One" children's show. In addition, plans exist for the production of 30-60 second vignettes to air on the "Fox 22 Kids Club" on WLFL. These vignettes will educate and inform kids on a variety of topics including water safety, UV protection, fire safety, and local history. WLFL is also currently working with the Wake County school system on a character education program for the Fall. This county-wide program will focus on the development of important character traits for children, such as perseverance, dependability and trustworthiness. In addition, the LMA will allow for the expansion of local news programming on WLFL to one hour each day. Finally, WLFL and WRDC news anchors frequently visit local schools to answer children's questions about television. WLFL's meteorologist also speaks at various local schools to educate children about the weather. The LMA, by allowing these stations to combine their resources and talent, makes such community outreach programs viable.

Conclusion

Sinclair's experience indicates that LMAs serve an essential role in maintaining competition and diversity in television broadcasting. LMAs have allowed Sinclair to more fully pursue its commitment to producing and airing meaningful local, minority and children's programming. LMAs are also a vital tool for allowing many television stations to be able to

^{5/} See FNPRM at 61, para. 139; Metro Broadcasting, Inc. V. FCC, 497 U.S. 547 (1990), as discussed supra in Section II.

meaningfully compete in the video marketplace with other, less-regulated technologies and services to provide such programming. Consequently, Sinclair respectfully submits that in light of the benefits associated with LMAs, the Commission should continue to allow LMAs in the future.

Respectfully submitted,

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